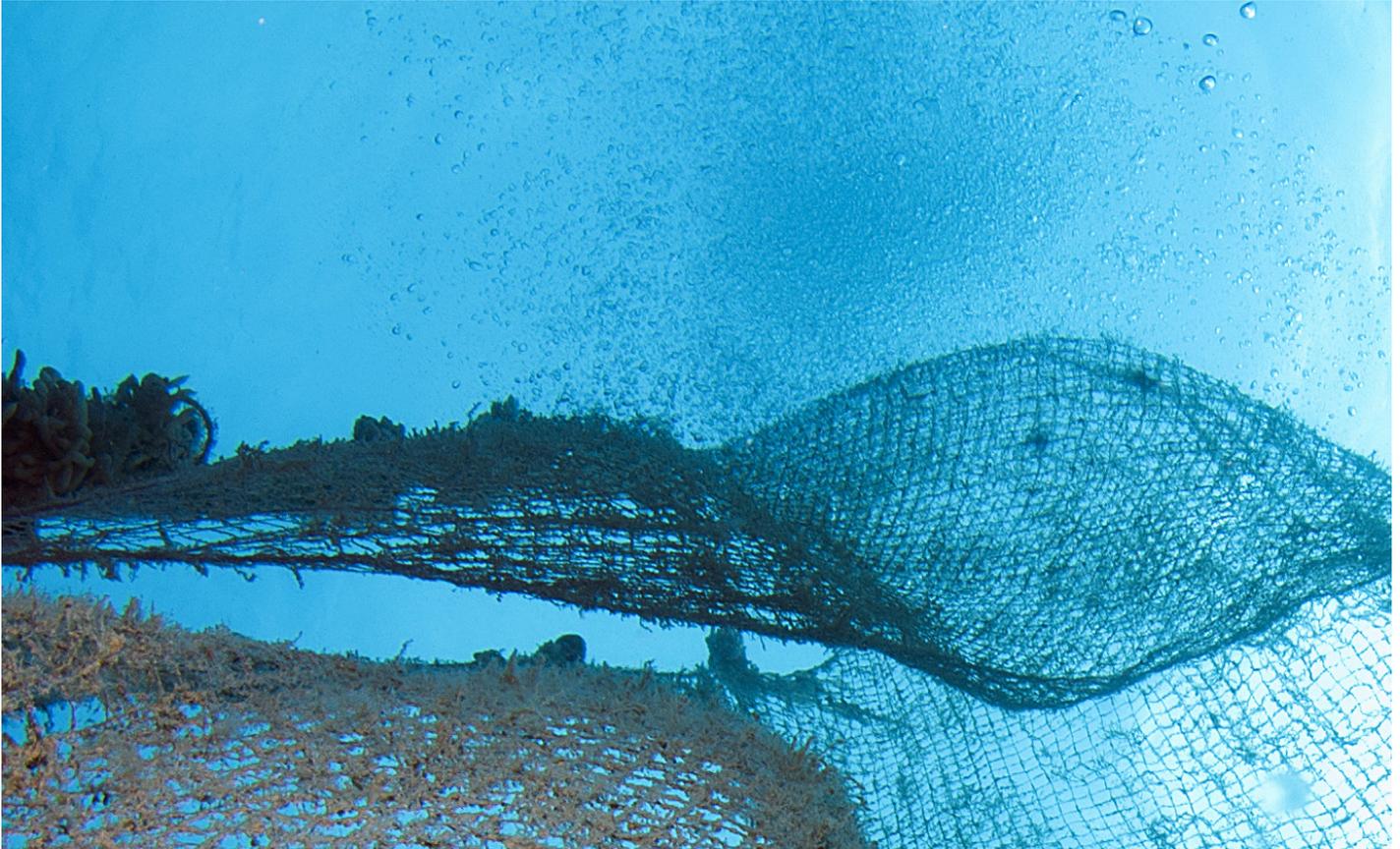




HUMAN RIGHTS AT SEA



## **Human Rights at Sea Legal Briefing Note**

**On Proposed Amendments  
Incorporating International  
Human Rights Law into the  
Draft Agreement under the  
United Nations Convention  
on The Law of The Sea on  
The Conservation and  
Sustainable Use of Marine  
Biological Diversity of Areas  
Beyond National Jurisdiction**



# Human Rights at Sea

LEGAL BRIEFING NOTE ON PROPOSED AMENDMENTS TO DRAFT AGREEMENT ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION



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## FOREWORD

For six years the UK-based charitable NGO, Human Rights at Sea, has been researching, educating, advocating and constructively lobbying for change of institutional and generational attitudes in the maritime sector for better awareness, protections and effective remedies stemming from human rights abuses at sea, reflecting the fundamental rights established the 1948 Universal Declaration on Human Rights. Today, the discussion and emerging international narrative concerning human rights at sea as a concept and its practical application continues to rapidly develop from academic, commercial, State and civil society perspectives.

## LEGAL DEVELOPMENT

Human Rights at Sea has been developing the Geneva Declaration on Human Rights at Sea in order to raise global awareness and to make sure that the concept of human rights at sea is accepted at the international level.



### THE DRAFT GENEVA DECLARATION RECOGNISES THAT:

**The seas and oceans are a public space, which is crossed by vessels and people from all States and different States exercise their jurisdiction thereon.**

**The public order of the oceans, including the protection of human rights for all people, is a collective responsibility for the international community.**

Human rights apply at sea as they do on land but there still remains a gap in the legislative framework concerning the laws of the sea which does not explicitly refer to international human rights law. Human Rights at Sea believes that the Draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction offers an opportunity to plug that gap. Marine biological diversity cannot be considered in a vacuum. Effective conservation and sustainable use of marine biological diversity depends on the activities of people and businesses beyond national jurisdiction. And for many people, marine biological diversity is the foundation of their livelihoods and guarantees their economic, social and cultural rights. All types of seafarers such as fishermen, crews of commercial or scientific vessels, cruise ships, those involved in the extractive industries etc. and coastal communities are potentially involved in and affected by these activities. The protection of the rights of those people will be closely connected to their ability to protect the marine environment.



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## HUMAN RIGHTS AND INTERNATIONAL LAW

Human rights law permeates all the activities of the United Nations.

ARTICLE 1.3 OF THE UN CHARTER 1946 STATES THAT ONE OF THE PURPOSES OF THE UNITED NATIONS IS:

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;

The rights and freedoms contained in the Universal Declaration on Human Rights 1948 are recognised by all members of the United Nations and have the status of customary international law. These have been built upon through several international treaties on human rights including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR) and other conventions addressing specific human rights issues. International human rights law applies on land as it does at sea, but ensuring that those rights are real and effective, particularly outside national jurisdictions, requires explicit legal frameworks. Without clear legal protections, it is difficult to provide accountability for human rights beyond national borders.

The working conditions of those working at sea is likely to have an impact on their ability and inclination to promoting marine conservation and sustainability, particularly where poor labour conditions and pay are connected to profits. The Maritime Labour Convention 2006 updated and brought together existing standards of human rights law in the context of maritime labour. These include guarantees of freedom of association, the abolition of child labour and the elimination of forced or compulsory labour and discrimination as well as employment and social rights.



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## HUMAN RIGHTS RELEVANCE TO THE DRAFT AGREEMENT

While human rights are not the focus of the Draft agreement under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the agreement should explicitly refer to the applicability of international human rights standards in the implementation of the agreement. There is an increasing recognition internationally that environmental issues and human rights are inextricably linked, and this is the case as much at sea as it is on land.

The Draft agreement includes provisions for review and consultation on the impact of activities and these provisions would be strengthened by interpretation through a human rights lens. **For example, Article 33 of the latest draft of the agreement deals with “Mitigation, prevention and management of potential adverse effects.” Adverse effects should include human rights impacts on seafarers and coastal communities. Article 34 of the draft deals with “Public Notification and Consultation.”** This type of consultation process should be undertaken with a human rights based approach to ensure that it takes account of the implications of planned activities on human rights protected by international law.

Human Rights at Sea believes that including explicit human rights language in the agreement and its preamble would strengthen the effectiveness of the agreement and ensure that there is no conflict between international human rights law and the international law of the sea in this area. The inclusion of references to international human rights law would not detract from the core purpose of the agreement but would clarify the interpretation and application of the agreement in practice.

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## PROPOSED AMENDMENTS TO DRAFT AGREEMENT

Human Rights at Sea proposes the following amendments to the draft text which would embed human rights law in the interpretative provisions of the draft agreement without affecting the overall content and focus of the agreement:

### ADDITIONAL CLAUSE IN THE PREAMBLE:

"Recognising the need to promote and encourage the respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion in achieving international cooperation to solve international problems," (Based on UN Charter)

or

"Recognising that the human rights and freedoms set out in the Universal Declaration on Human Rights apply on sea as they do on land."

### ARTICLE 4:

Relationship between this Agreement and the Convention and other [existing] relevant legal instruments and frameworks and relevant global, regional and sectoral bodies....

3. This Agreement shall be interpreted and applied in a manner that [respects the competences of and] does not undermine [existing] relevant legal instruments and frameworks [including international human rights laws] and relevant global, regional and sectoral bodies, and that promotes coherence and coordination with those instruments, supportive of and do not run counter to the objectives of the Convention and this agreement [or the purposes contained in the UN Charter].

or

[5. The provisions of this Agreement shall be interpreted and applied in a manner that respects the rights and freedoms set out in the Universal Declaration on Human Rights and other relevant international human rights laws.]

19 September 2019

# Who We Are

## BACK GROUND

Human Rights at Sea was established in April 2014. It was founded as an initiative to explore issues of maritime human rights development, review associated policies and legislation, and to undertake independent investigation of abuses at sea. It rapidly grew beyond all expectations and for reasons of governance it became a registered charity under the UK Charity Commission in 2015.

Today, the charity is an established, regulated and independent registered non-profit organisation based on the south coast of the United Kingdom. It undertakes **Research, Education, Advocacy and Lobbying** specifically for human rights issues in the maritime environment, including contributing to support for the human element that underpins the global maritime and fishing industries.

The charity works internationally with all individuals, commercial and maritime community organisations that have similar objectives as ourselves, including all the principal maritime welfare organisations.

## OUR MISSION

To explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.



## KEEP IN CONTACT



We welcome any questions, comments or suggestions. Please send your feedback to:  
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[www.humanrightsatsea.org](http://www.humanrightsatsea.org)



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## HUMAN RIGHTS AT SEA



### Human Rights at Sea Legal Briefing Note

### On Proposed Amendments Incorporating International Human Rights Law into the Draft Agreement under the United Nations Convention on The Law of The Sea on The Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction

Human Rights at Sea is a Registered Charity in England and Wales No. 1161673. The organisation has been independently developed for the benefit of the international community for matters and issues concerning human rights in the maritime environment. Its aim is to explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.

Prepared and researched alongside Human Rights at Sea by Susie Alegre, Barrister-at-Law, Doughty Street Chambers, London and Director, Island Rights Initiative.

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